

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALFONSO AMELIO, CARMINE AMELIO,
and CLEMENTE AMELIO,

Plaintiffs,

v.

McCABE, WEISBERG & CONWAY, P.C.;
FEIN, SUCH & CRANE LLP; SETERUS,
INC.; OCWEN LOAN SERVICING, LLC;
ONEWEST BANK, N.A.; QUICKEN
LOANS, INC; FEDERAL NATIONAL
MORTGAGE ASSOCIATION; CONCRETE
PROPERTIES, LLC; AND SANDELANDS
EYET LLP,

Defendants.

Civil Action No. 1:19-CV-08761(ALC)

**QUICKEN LOANS, LLC’S NOTICE OF INTENT
TO DEFEND NEWLY-REOPENED CASE**

Defendant Quicken Loans, LLC (“Quicken Loans”) files this notice to advise the Court that it stands ready to defend this matter, which the Court had previously dismissed and closed but then reopened yesterday. In support of this Notice, Quicken Loans states the following:

1. Plaintiffs filed this lawsuit on September 20, 2019 (Dkt. No. 1), and later filed a first amended complaint on September 27, 2019 (Dkt. No. 4).
2. On October 22, 2019, the Court directed Plaintiffs “to serve the summons and complaint on each Defendants within 90 days of the issuance of the summonses.” Dkt. No. 5. The Clerk of Court issued the summons to Plaintiffs on October 25, 2019. Dkt. No. 6.

3. On July 17, 2020, the Court granted Plaintiffs' request for an extension of time to serve the complaint, and ordered Plaintiffs "to file proof of service by or before October 4, 2020." Dkt. No. 9.

4. Plaintiffs did not comply with this Order, and instead filed a second amended complaint on October 5, 2020. Dkt. No. 10.

5. As such, by Order dated October 15, 2020, the Court dismissed the case "for failure to timely serve the summons and complaint on defendants." Dkt. No. 11. In so doing, the Court instructed Plaintiffs that if they "wish to request to reopen this matter and seek a further extension of time to serve the summons and complaint for good cause shown, they must do so by November 5, 2020." *Id.* The Clerk of the Court mailed a copy of the dismissal order to Plaintiffs on October 15, 2020.

6. Again, Plaintiffs did not comply with this Court's Order. Notwithstanding this, Plaintiffs purported to serve the second amended complaint on Quicken Loans on October 16, 2020. For its part, Quicken Loans denies the claims and allegations directed to it in the second amended complaint and maintains that Plaintiffs' claims are subject to dismissal pursuant to Fed. R. Civ. P. 12(b)(6).

7. On November 5, 2020—yesterday—Plaintiffs filed a letter with the Court asking the Court "to grant their request to reopen this matter and a further sixty (60) days extension to time to confirm proper and effectuated service of summons and complaint." Dkt. No. 14. The Court granted Plaintiffs' request for an extension of time to effect service, and re-opened the case. Dkt. No. 13. To date, Plaintiffs still have not filed any proof of service with the Court.

8. Given that this lawsuit had been dismissed, no answer or other response to the second amended complaint was required. However, now that the Court has reopened this matter,

Quicken Loans takes this opportunity to advise the Court of its intent to defend and arrange a pre-motion conference in advance of filing a motion to dismiss, as required by Individual Rules of Practice 2.A. Quicken Loans is prepared to file its letter requesting a pre-motion conference by November 16—seven business days from the Court’s order reopening the case.

Dated: November 6, 2020

Respectfully submitted,

GOODWIN PROCTER LLP

By: /s/ Alyssa A. Sussman
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Counsel for Defendant Quicken Loans, LLC

CERTIFICATE OF SERVICE

I, Alyssa A. Sussman, hereby certify that on November 6, 2020 a copy of the foregoing document, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies shall be served on the Plaintiffs by first class mail postage prepaid.

/s/ Alyssa A. Sussman
Alyssa A. Sussman